

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF TEXAS

In Re: Helia Tec Resources, Inc.

Debtor

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§

Cause No. 13-36251

Chapter 11

MOTION TO WITHDRAW AS COUNSEL OF RECORD

David B. Harberg and The Law Offices of David B. Harberg (collectively “Harberg”) file this Motion to Withdraw as Counsel of Record for Party in Interest HSC Holdings Co., Ltd. (“HSC”), and respectfully state the following:

1. Harberg is listed as counsel of record for HSC, a Party in Interest in this bankruptcy proceeding.

2. In November 2013, HSC retained Harberg to represent it in this bankruptcy proceeding and executed a written engagement agreement. The engagement agreement provides, among other things:

Client’s failure to timely respond to Attorney’s communications and requests shall be a basis for Attorney to withdraw from representing Client in this engagement. Client consents to Attorney’s withdrawal if it is necessitated by Client’s failure to timely respond to Attorney’s communications or Client’s failure to timely pay Attorney’s invoices.

3. Harberg has not been able to effectively communicate with HSC and, as a result, can no longer effectively represent HSC. HSC has stopped responding to Harberg’s communications and requests for responses, even those involving time sensitive matters and deadlines.

4. Harberg has advised HSC in writing of his withdrawal. Harberg has done so via email, which the engagement agreement provides is the agreed method of

communication.¹ Additionally, Harberg has attempted to deliver notice to HSC via Federal Express at the address listed in the engagement agreement and every other address that Harberg has found associated with HSC in internet searches. Federal Express has not been able to deliver any package to HSC and reports to Harberg that HSC cannot be found at any of the addresses provided. HSC's last known address, which is set out in the engagement agreement, is:

Email address: njs@hsholdings.co.kr
Mailing address: #606, Central Royal Office Building, 1355-8 Seocho-Dong
Seocho-Gu, Seoul, Korea 137-862

5. Harberg has advised HSC of all pending filing deadlines relevant to HSC as a Party in Interest.
6. Harberg has emailed to HSC a copy of this Motion to Withdraw.
7. Upon request, Harberg will provide to the Court *in camera* copies of his communications with HSC for which there has been no response.
8. Without the ability to effectively communicate and receive responses from HSC, it has become unreasonably difficult for Harberg to continue his representation of HSC in this bankruptcy matter post-confirmation. In particular, Harberg's future communications with HSC concerning upcoming deadlines and further filings, if any, in this bankruptcy proceeding will be substantially impaired by the non-responsiveness of this client and the lack of a serviceable physical address for HSC.
9. Pursuant to Tex. Disc. R. Prof'l Conduct 1.15, there is good cause for termination of Harberg's representation of HSC. As described above, HSC has failed to substantially fulfill an obligation to Harberg regarding Harberg's services, particularly

¹ Harberg and HSC agreed that, because Harberg does not speak Korean, communications would be via email and in English, as HSC could quickly translate Harberg's emails.

the obligation to timely respond to Harberg's communications and requests; HSC has been given reasonable warning that Harberg will withdraw unless the obligation is fulfilled; and Harberg's continued representation of HSC will be rendered unreasonably difficult by the client's failure to respond to communications and requests. *See*, Tex. Disc. R. Prof'l Conduct 1.15(b)(5) and (6).

WHEREFORE, Harberg respectfully requests that the Court grant his Motion to Withdraw, removing him as counsel of record for HSC in this matter.

Respectfully submitted,

THE LAW OFFICES OF DAVID B. HARBERG

By: s/ David B. Harberg

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***Former Attorneys for Party in Interest
HSC Holdings Co., Ltd., f/k/a GE&F Co.,
Ltd.***

CERTIFICATE OF CONFERENCE

I certify that, on September 23, 2015 I conferred with Richard Fuqua, counsel for Debtor and attempted to confer with Heather Potts, Plan Agent for the Liquidating Debtor, regarding the foregoing Motion to Withdraw as Counsel of Record. Mr. Fuqua responded that his client does not oppose this motion. Heather Potts, the Plan Agent for Liquidating Debtor, was unavailable to confer with me. I left a detailed message for Ms. Potts, but had not heard back from her by the time I filed this Motion.

s/David B. Harberg

David B. Harberg

CERTIFICATE OF SERVICE

The undersigned hereby certifies that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document on this 23rd day of September, 2015, via the Court's CM/ECF system.

s/David B. Harberg

David B. Harberg